

AMENDED IN ASSEMBLY MAY 20, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1962

Introduced by Assembly Member Hollingsworth

February 14, 2002

An act to amend Section 250 of the Evidence Code, and to amend Section 6252 of the Government Code, relating to electronic communication.

LEGISLATIVE COUNSEL'S DIGEST

AB 1962, as amended, Hollingsworth. Electronic communication.

Existing law relating to evidence in court actions and specified administrative proceedings defines evidence as including a writing, which is defined as handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

~~This bill would define writing under these provisions as including electronic mail, electronic correspondence, and facsimile transmissions.~~

The California Public Records Act, ~~that~~ *which* requires each state and local agency to make its records open to public inspection at all times during office hours, with specified exemptions, defines public records as including any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. The act defines a writing as handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of

communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

This bill would ~~also~~ define writing under these provisions to ~~include electronic mail, electronic correspondence, and facsimile transmission~~ *mean handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored.* By expanding the scope of public records that local agencies are required to make available for public inspection, this bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would state that it is declaratory of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 250 of the Evidence Code is amended
2 to read:
3 250. “Writing” means handwriting, typewriting, printing,
4 photostating, photographing, *photocopying, transmitting by*
5 *electronic mail or facsimile*, and every other means of recording
6 upon any tangible thing, ~~including electronic mail, electronic~~
7 ~~correspondence, and facsimile transmissions~~, any form of
8 communication or representation, including letters, words,

1 pictures, sounds, or symbols, or combinations thereof, *and any*
2 *record thereby created, regardless of the manner in which the*
3 *record has been stored.*

4 SEC. 2. Section 6252 of the Government Code is amended to
5 read:

6 6252. As used in this chapter:

7 (a) “State agency” means every state office, officer,
8 department, division, bureau, board, and commission or other
9 state body or agency, except those agencies provided for in Article
10 IV (except Section 20 thereof) or Article VI of the California
11 Constitution.

12 (b) “Local agency” includes a county; city, whether general
13 law or chartered; city and county; school district; municipal
14 corporation; district; political subdivision; or any board,
15 commission or agency thereof; other local public agency; or
16 nonprofit entities that are legislative bodies of a local agency
17 pursuant to subdivisions (c) and (d) of Section 54952.

18 (c) “Person” includes any natural person, corporation,
19 partnership, limited liability company, firm, or association.

20 (d) “Public agency” means any state or local agency.

21 (e) “Public records” includes any writing containing
22 information relating to the conduct of the public’s business
23 prepared, owned, used, or retained by any state or local agency
24 regardless of physical form or characteristics. “Public records” in
25 the custody of, or maintained by, the Governor’s office means any
26 writing prepared on or after January 6, 1975.

27 (f) “Writing” means handwriting, typewriting, printing,
28 photostating, photographing, *photocopying, transmitting by*
29 *electronic mail or facsimile*, and every other means of recording
30 upon any *tangible thing* any form of communication or
31 representation, including letters, words, pictures, sounds, or
32 symbols, or combination thereof, ~~and all papers, maps, magnetic~~
33 ~~or paper tapes, photographic films and prints, magnetic or punched~~
34 ~~cards, discs, drums, and other documents, including electronic~~
35 ~~mail, electronic correspondence, and facsimile transmissions.~~
36 *thereof, and any record thereby created, regardless of the manner*
37 *in which the record has been stored.*

38 (g) “Member of the public” means any person, except a
39 member, agent, officer, or employee of a federal, state, or local

1 agency acting within the scope of his or her membership, agency,
2 office, or employment.

3 SEC. 3. *The Legislature finds and declares that the*
4 *amendments to Section 250 of the Evidence Code and Section 6252*
5 *of the Government Code made by this act do not constitute a*
6 *change in, but are declaratory of, existing law.*

7 SEC. 4. Notwithstanding Section 17610 of the Government
8 Code, if the Commission on State Mandates determines that this
9 act contains costs mandated by the state, reimbursement to local
10 agencies and school districts for those costs shall be made pursuant
11 to Part 7 (commencing with Section 17500) of Division 4 of Title
12 2 of the Government Code. If the statewide cost of the claim for
13 reimbursement does not exceed one million dollars (\$1,000,000),
14 reimbursement shall be made from the State Mandates Claims
15 Fund.

